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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/402,472	11/30/1999	DANIEL CELERIER	0143-0473-6-PCT	5980

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EXAMINER

JIMENEZ, MARC QUEMUEL

ART UNIT PAPER NUMBER

3726

DATE MAILED: 05/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/402,472

Applicant(s)

CELERIER ET AL.

Examiner

Marc Jimenez

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 16 April 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Attachment A.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☒ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). 27.
10. ☐ Other: _____

Attachment A

1. Applicant argues that several patents of record provide objective evidence of the long-felt problem with mounting the oxygen sensor to the exhaust pipe of an engine where the exhaust pipe is inherently thin, and therefore it is difficult to provide a mounting structure that provides stability to the threaded or other mounting structure that is leak-resistant and that is inexpensive to manufacture. Furthermore, Applicant argues that the Csanitz et al. reference shows a mounting boss that “appears to be similarly formed” like the Iwata et al. reference which shows mounting nipple welded to an exhaust pipe in order to form the seat for the sensor. However, there is no evidence that the mounting boss of Csanitz et al. is formed like the welded nipple of Iwata et al. The boss of Csanitz et al. is not made of a separate piece like the nipple of Iwata et al. Weber shows a boss that is identical to the Csanitz et al. reference and applicant argues that it suffers from the same problems of Iwata et al. However, the boss of Weber is also not made of a separate piece like the nipple of Iwata et al. Applicant states that Iwata et al. is clear evidence of a failure to solve the problems of providing an exhaust pipe because of the **associated leakage problems that can result due to heat stress on the welds**. However, it is noted that both Csanitz et al. and Weber do not show welded bosses. The bosses of Csanitz et al. and Weber are monolithic with the exhaust pipe. Therefore, in response to applicants argument that a problem existed (leakage due to heat stress on the welds) and no one in the art satisfied the need prior to the present invention, it is noted that Csanitz et al. and Weber do not have welded bosses and therefore there is no leakage due to heat stress on welds because there are no welds at the bosses. Therefore, the alleged long felt need to eliminate leakage due to heat stress on the welds have been satisfied by another before the invention by applicant (See MPEP 716.04). Furthermore, the

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references applied in the final rejection, for example Feher teaches a boss that is monolithically formed, the boss is not welded, and therefore there is no leakage due to heat stress. Feher satisfied the alleged long felt need to eliminate leakage due to heat stress on the welds because the boss is not welded. Also, Olson teaches a boss that is monolithically formed. Olson satisfied the alleged long felt need to eliminate leakage due to heat stress on the welds because the boss is not welded.

2. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

3. Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, should be directed to the group clerical personnel. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information. M.P.E.P. 203.08. The Group clerical receptionist number is (703) 308-1148.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers or other general questions should be directed to Tech Center 3700 Customer

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Service at (703) 306-5648, or fax (703) 872-9301 or by email to

CustomerService3700@uspto.gov.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc Jimenez whose telephone number is **703-306-5965**. The examiner can normally be reached on **Monday-Friday, between 5:30 am- 2:00 pm.**

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 703-308-1513. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

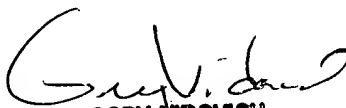
Other helpful telephone numbers are listed for applicant's benefit.

Allowed Files & Publication	(703) 308-6789 or (888) 786-0101
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If the information desired is not provided above, or a number has been changed, please call the general information help line below.

Information Help line	1-800-786-9199
Internet PTO-Home Page	http://www.uspto.gov/

MJ
April 29, 2003


GREGORY VIDOVICH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700